

# House Study Bill 668 - Introduced

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON NUNN)

## A BILL FOR

1 An Act relating to the delinquency jurisdiction of the juvenile  
2 court and the confidentiality and disclosure of certain  
3 juvenile court records.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, subsection 12, Code 2018, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *d.* The violation of section 716.8, which is  
4 committed by a child.

5 Sec. 2. Section 232.2, Code 2018, is amended by adding the  
6 following new subsection:

7 NEW SUBSECTION. 32A. "*Juvenile diversion program*" means  
8 an organized effort to coordinate services for a child by an  
9 intake officer that results in a dismissal of the complaint  
10 alleging the commission of a delinquent act and does not result  
11 in an informal adjustment agreement involving juvenile court  
12 services or the filing of a delinquency petition.

13 Sec. 3. Section 232.8, subsection 2, Code 2018, is amended  
14 to read as follows:

15 2. a. A case involving a person charged in a court other  
16 than the juvenile court with the commission of a public offense  
17 not exempted by law from the jurisdiction of the juvenile  
18 court and who is within the provisions of [subsection 1](#) of this  
19 section shall immediately be transferred to the juvenile court.  
20 The transferring court shall order a transfer and shall forward  
21 the transfer order together with all papers, documents and a  
22 transcript of all testimony filed or admitted into evidence  
23 in connection with the case to the clerk of the juvenile  
24 court. The jurisdiction of the juvenile court shall attach  
25 immediately upon the signing of an order of transfer. From the  
26 time of transfer, the custody, shelter care and detention of  
27 the person alleged to have committed a delinquent act shall be  
28 in accordance with the provisions of [this chapter](#) and the case  
29 shall be processed in accordance with the provisions of this  
30 chapter.

31 b. Upon completion of the transfer to juvenile court,  
32 the court shall file an order dismissing the charge in the  
33 transferring court and directing the clerk of court to seal all  
34 records of the charge initiated in the transferring court.

35 Sec. 4. Section 232.44, subsection 1, paragraph a, Code

1 2018, is amended to read as follows:

2     ~~a. A hearing shall be held within forty-eight hours,~~  
3 ~~excluding Saturdays, Sundays, and legal holidays, two working~~  
4 ~~days~~ of the time of the child's admission to a shelter care  
5 facility, ~~and within twenty-four hours, excluding Saturdays,~~  
6 ~~Sundays, and legal holidays, one working day~~ of the time of a  
7 child's admission to a detention facility. If the hearing is  
8 not held within the time specified in this paragraph, except  
9 for good cause shown, the child shall be released from shelter  
10 care or detention.

11     Sec. 5. Section 232.147, Code 2018, is amended by adding the  
12 following new subsection:

13     NEW SUBSECTION. 1A. Official juvenile court records  
14 in all cases except those alleging delinquency shall be  
15 confidential and are not public records. Confidential records  
16 may be inspected and their contents shall be disclosed to the  
17 following without court order, provided that a person or entity  
18 who inspects or receives a confidential record under this  
19 subsection shall not disclose the confidential record or its  
20 contents unless required by law:

21     a. The judge and professional court staff, including  
22 juvenile court officers.

23     b. The child and the child's counsel.

24     c. The child's parent, guardian or custodian, court  
25 appointed special advocate, and guardian ad litem, and  
26 the members of the child advocacy board created in section  
27 237.16 or a local citizen foster care review board created in  
28 accordance with section 237.19 who are assigning or reviewing  
29 the child's case.

30     d. The county attorney, the county attorney's assistants, or  
31 the attorney representing the state in absence of the county  
32 attorney.

33     e. An agency, individual, association, facility, or  
34 institution responsible for the care, treatment, or supervision  
35 of the child pursuant to a court order or voluntary placement

1 agreement with the department of human services, juvenile  
2 officer, or intake officer.

3 *f.* A court, court professional staff, and adult probation  
4 officers in connection with the preparation of a presentence  
5 report concerning a person who prior thereto had been the  
6 subject of a juvenile court proceeding.

7 *g.* The child's foster parent or an individual providing  
8 preadoptive care to the child.

9 *h.* The state public defender.

10 *i.* The statistical analysis center for the purposes stated  
11 in section 216A.136.

12 *j.* The department of human services.

13 Sec. 6. Section 232.147, subsections 2 and 3, Code 2018, are  
14 amended to read as follows:

15 2. Official juvenile court records in all cases alleging  
16 the commission of a delinquent act except those alleging the  
17 commission of a delinquent act that would be a forcible felony  
18 if committed by an adult shall be confidential and are not  
19 public records. Unless an order sealing such confidential  
20 records in a delinquency proceeding has been entered pursuant  
21 to [section 232.150](#), confidential records may be inspected and  
22 their contents shall be disclosed to the following without  
23 court order, provided that a person or entity who inspects or  
24 receives a confidential record under this ~~section~~ subsection  
25 shall not disclose the confidential record or its contents  
26 unless required by law:

27 *a.* The judge and professional court staff, including  
28 juvenile court officers.

29 *b.* The child and the child's counsel.

30 *c.* The child's parent, guardian or custodian, court  
31 appointed special advocate, and guardian ad litem, and  
32 the members of the child advocacy board created in section  
33 237.16 or a local citizen foster care review board created in  
34 accordance with [section 237.19](#) who are assigning or reviewing  
35 the child's case.

1     *d.* The county attorney, and the county attorney's  
2 assistants, or the attorney representing the state in absence  
3 of the county attorney.

4     *e.* An agency, individual, association, facility, or  
5 institution which has custody of the child, or is legally  
6 responsible for the care, treatment, or supervision of the  
7 child, including but not limited to the department of human  
8 services pursuant to a court order or voluntary placement  
9 agreement with the department of human services, juvenile court  
10 officer, or intake officer.

11     *f.* A court, court professional staff, and adult probation  
12 officers in connection with the preparation of a presentence  
13 report concerning a person who prior thereto had been the  
14 subject of a juvenile court delinquency proceeding.

15     ~~*g.* The child's foster parent or an individual providing~~  
16 ~~preadoptive care to the child.~~

17     ~~*h.*~~ *g.* The state public defender.

18     *h.* The department of human services.

19     *i.* The department of corrections.

20     *j.* A judicial district department of correctional services.

21     *k.* The board of parole.

22     *l.* The superintendent or the superintendent's designee of  
23 the school district for the school attended by the child or  
24 the authorities in charge of an accredited nonpublic school  
25 attended by the child.

26     *m.* A member of the armed forces of the United States who is  
27 conducting a background investigation of an individual pursuant  
28 to federal law.

29     *n.* The statistical analysis center for the purposes stated  
30 in [section 216A.136](#).

31     *o.* A state or local law enforcement agency.

32     *p.* The alleged victim of the delinquent act.

33     *q.* An individual involved in the operation of a juvenile  
34 diversion program, who may also receive from a state or local  
35 law enforcement agency police reports and related information

1 that assist in the operation of the juvenile diversion program.

2 3. Official juvenile court records containing a petition  
3 or complaint alleging the commission of a delinquent act that  
4 would be a forcible felony if committed by an adult shall be  
5 public records subject to a confidentiality order under section  
6 232.149A or sealing under section 232.150. However, such  
7 official records shall not be available to the public or any  
8 governmental agency through the internet or in an electronic  
9 customized data report unless the child has been adjudicated  
10 delinquent in the matter. However, such official juvenile  
11 court records shall be disclosed through the internet or in  
12 an electronic customized data report prior to the child being  
13 adjudicated delinquent to the following without court order:

14 a. The judge and professional court staff, including  
15 juvenile court officers.

16 b. The ~~child and the~~ child's counsel ~~or guardian ad litem.~~

17 c. The child's parent, guardian or custodian,  
18 court-appointed special advocate, guardian ad litem, and  
19 the members of the child advocacy board created in section  
20 237.16 or a local citizen foster care review board created in  
21 accordance with section 237.19 who are assigning or reviewing  
22 the child's case.

23 ~~e.~~ d. The county attorney, ~~and~~ the county attorney's  
24 assistants, or the attorney representing the state in absence  
25 of the county attorney.

26 ~~d.~~ e. A court, court professional staff, and adult  
27 probation officers in connection with the preparation of a  
28 presentence report concerning a person who prior thereto had  
29 been the subject of a juvenile court proceeding.

30 f. An agency, individual, association, facility, or  
31 institution responsible for the care, treatment, or supervision  
32 of the child pursuant to a court order or voluntary placement  
33 agreement with the department of human services, juvenile court  
34 officer, or intake officer.

35 ~~e.~~ g. A state or local law enforcement agency.

1     ~~f.~~ h. The state public defender.

2     ~~g.~~ i. The statistical analysis center for the purposes  
3 stated in [section 216A.136](#).

4     ~~h.~~ j. The department of human services.

5     ~~i.~~ k. The department of corrections.

6     ~~j.~~ l. A judicial district department of correctional  
7 services.

8     ~~k.~~ m. The board of parole.

9     n. The superintendent or the superintendent's designee of  
10 the school district for the school attended by the child or  
11 the authorities in charge of an accredited nonpublic school  
12 attended by the child.

13     o. A member of the armed forces of the United States who is  
14 conducting a background investigation of an individual pursuant  
15 to federal law.

16     p. The alleged victim of the delinquent act.

17     q. An individual involved in the operation of a juvenile  
18 diversion program, who may also receive from a state or local  
19 law enforcement agency police reports and related information  
20 that assist in the operation of the juvenile diversion program.

21     Sec. 7. Section 232.147, subsection 16, Code 2018, is  
22 amended to read as follows:

23     16. A provision in [this section](#) or [section 232.149A](#) shall  
24 not limit or prohibit individuals from performing any duties  
25 or responsibilities as required by [section 123.47B](#), [124.415](#),  
26 [232.47](#), ~~or~~ [232.49](#), or [321J.2B](#).

27     Sec. 8. Section 232.149, subsection 2, Code 2018, is amended  
28 to read as follows:

29     2. Records and files of a criminal or juvenile justice  
30 agency, an intake officer, or a juvenile court officer  
31 concerning a child involved in a delinquent act are  
32 confidential. The records are subject to sealing under section  
33 232.150 unless the juvenile court waives its jurisdiction over  
34 the child so that the child may be prosecuted as an adult for  
35 a public offense. A criminal or juvenile justice agency may

1 disclose to individuals involved in the operation of a juvenile  
2 diversion program police reports and related information that  
3 assist in the operation of the juvenile diversion program.

4 Sec. 9. Section 232.149, Code 2018, is amended by adding the  
5 following new subsection:

6 NEW SUBSECTION. 6. Notwithstanding subsections 2 and 5,  
7 information from such records and files may be disclosed by  
8 a juvenile justice agency, intake officer, or juvenile court  
9 officer, when making referrals for placement of the child, to  
10 an agency, individual, association, facility, or institution  
11 that will have physical custody of the child, or will become  
12 responsible for the care, treatment, or supervision of the  
13 child upon placement.

14 Sec. 10. Section 232.150, subsection 4, paragraph a, Code  
15 2018, is amended to read as follows:

16 a. All agencies and persons having custody of records which  
17 are named therein, shall send such records to the court issuing  
18 the order. Maintenance or destruction of these records shall  
19 be prescribed by the state court administrator.

20 Sec. 11. Section 232.151, Code 2018, is amended to read as  
21 follows:

22 **232.151 Criminal penalties.**

23 1. Any person who knowingly discloses, receives, or makes  
24 use or permits the use of information derived directly or  
25 indirectly from the records concerning a child referred to in  
26 sections 232.147 through 232.150, except as provided by those  
27 sections or section 13B.4B, subsection 2, paragraph "c", shall  
28 be guilty of a serious misdemeanor.

29 2. This section does not apply to a person or entity  
30 authorized to receive or inspect the contents of confidential  
31 official juvenile court records, or the confidential records  
32 of a criminal or juvenile justice agency, juvenile court  
33 officer, or juvenile intake officer, when such person or entity  
34 discloses such information to another person or entity also  
35 authorized to receive or inspect the confidential information,



1 or discloses to a witness or other interested person the date,  
2 time, and nature of a court proceeding concerning the child  
3 in order to secure the appearance of the witness or other  
4 interested person at the proceeding.

5 Sec. 12. Section 692.2, subsection 1, paragraph b, Code  
6 2018, is amended by adding the following new subparagraph:

7 NEW SUBPARAGRAPH. (7) Absent an order determining official  
8 juvenile court records to be public records entered pursuant  
9 to section 232.149B, adjudication and custody data that are  
10 deemed or ordered to be confidential pursuant to section  
11 232.147, 232.149, or 232.149A, or that are sealed by court  
12 order pursuant to section 232.150, shall not be provided by the  
13 department.

14 Sec. 13. Section 803.1, Code 2018, is amended by adding the  
15 following new subsection:

16 NEW SUBSECTION. 5. If it is determined that charges were  
17 erroneously filed in district court against an individual under  
18 the age of eighteen and the juvenile court holds exclusive  
19 jurisdiction, the court shall file an order dismissing the  
20 charge in district court and directing the clerk of court to  
21 seal all records of the charge initiated in district court.

22 Sec. 14. Section 803.6, subsection 4, Code 2018, is amended  
23 to read as follows:

24 4. If after the hearing the court transfers jurisdiction  
25 over the defendant to the juvenile court for the alleged  
26 commission of the public offense, the court shall forward the  
27 transfer order together with all papers, documents, and a  
28 transcript of all testimony filed or admitted into evidence in  
29 connection with the case to the clerk of the juvenile court in  
30 the same manner as provided in section 232.8, subsection 2, and  
31 the clerk shall seal all records initiated in district court.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with  
34 the explanation's substance by the members of the general assembly.

35 This bill relates to the delinquency jurisdiction of the

1 juvenile court and the confidentiality and disclosure of  
2 certain juvenile court records.

3 DELINQUENT ACTS — TRESPASS. Current law defines a  
4 delinquent act as the violation of any state law or local  
5 ordinance which would constitute a public offense if committed  
6 by an adult. The bill expands the definition of a delinquent  
7 act to include the violation of Code section 716.8 (relating  
8 to trespassing). Despite adult violations being treated as  
9 scheduled violations, misdemeanors, or felonies, all trespass  
10 violations by children would be treated as delinquent acts in  
11 the juvenile court.

12 DETENTION OR SHELTER CARE HEARING. Under current law,  
13 a hearing for a child who is alleged to have committed a  
14 delinquent act is required to be held within 48 hours of the  
15 time of the child's admission to a shelter care facility,  
16 and within 24 hours of the time of a child's admission to a  
17 detention facility, excluding Saturdays, Sundays, and legal  
18 holidays. The bill amends current law to provide that a  
19 hearing is required to be held within two working days of  
20 the time of the child's admission to a shelter care facility  
21 and within one working day of a child's admission to a  
22 detention facility. If the hearing is not held within the time  
23 specified, except for good cause shown, the child shall be  
24 released from shelter care or detention.

25 OFFICIAL JUVENILE COURT RECORDS OTHER THAN JUVENILE  
26 DELINQUENCY RECORDS. The bill creates new Code section  
27 232.147(1A) to provide that official juvenile court records  
28 in all cases except those alleging delinquency shall be  
29 confidential and are not public records. However, the bill  
30 provides that such confidential records shall be disclosed,  
31 without a court order, to judges and professional court staff;  
32 the child and the child's counsel; the child's parent, guardian  
33 ad litem, and the members of a reviewing child advocacy board  
34 or a local citizen foster care review board; the county,  
35 attorney, the county attorney's assistants, or the attorney

1 representing the state in absence of the county attorney; an  
2 agency, individual, association, facility, or institution  
3 which has custody of or is legally responsible for the child;  
4 the court and court-related professional staff in connection  
5 with the preparation of a presentence report; the child's  
6 foster parent or an individual providing preadoptive care to  
7 the child; the state public defender; the statistical analysis  
8 center; and the department of human services.

9 JUVENILE DELINQUENCY RECORDS OTHER THAN FORCIBLE FELONY  
10 RECORDS. Current Code section 232.147(2) provides that  
11 official juvenile court records are confidential and therefore  
12 are not public records except in cases alleging the commission  
13 of a delinquent act that would be a forcible felony if  
14 committed by an adult. Under Code section 702.11, a forcible  
15 felony is any felonious child endangerment, assault, murder,  
16 sexual abuse, kidnapping, robbery, human trafficking, arson  
17 in the first degree, or burglary in the first degree. Unless  
18 an order sealing such confidential records in a delinquency  
19 proceeding has been entered under Code section 232.150,  
20 confidential records may be inspected, without court order,  
21 to certain persons or entities. The bill amends this current  
22 law to apply only to official juvenile court records alleging  
23 delinquency other than those alleging the commission of a  
24 delinquent act that would be a forcible felony if committed by  
25 an adult. The bill provides that unless a sealing order has  
26 been entered under Code section 232.150, these confidential  
27 records may be inspected, without court order, by judges and  
28 professional court staff; the child and the child's counsel;  
29 the child's parent, guardian or custodian, court-appointed  
30 special advocate, guardian ad litem, and the members of the  
31 child advocacy board created in Code [section 237.16](#) or a local  
32 citizen foster care review board created in accordance with  
33 Code section 237.19 who are assigning or reviewing the child's  
34 case; the county attorney, the county attorney's assistants, or  
35 the attorney representing the state in absence of the county

1 attorney; an agency, individual, association, facility, or  
2 institution which has custody of or is legally responsible  
3 for the child; the court and court-related professional staff  
4 in connection with the preparation of a presentence report;  
5 a state or local law enforcement agency; the state public  
6 defender; the statistical analysis center; the department of  
7 human services; the department of corrections; a judicial  
8 district department of correctional services; the board of  
9 parole; the superintendent or the superintendent's designee of  
10 the school district for the school attended by the child or  
11 the authorities in charge of an accredited nonpublic school  
12 attended by the child; a member of the armed forces of the  
13 United States who is conducting a background investigation  
14 of an individual pursuant to federal law; the alleged victim  
15 of the delinquent act; and individuals operating juvenile  
16 detention programs.

17 JUVENILE DELINQUENCY RECORDS INVOLVING FORCIBLE FELONIES.  
18 Current law provides in Code section 232.147(3) that unless  
19 subject to a confidentiality order under Code section 232.149A  
20 or a sealing order under Code section 232.150, official  
21 juvenile court records containing a petition or complaint  
22 alleging the commission of a delinquent act that would be a  
23 forcible felony if committed by an adult are public records.  
24 However, current law provides that such official records  
25 are not available to the public or any governmental agency  
26 through the internet or in an electronic customized data  
27 report unless the child has been adjudicated delinquent in  
28 the matter. Nevertheless, current law provides that official  
29 juvenile court records may be disclosed without a court order  
30 through the internet or in an electronic customized data report  
31 prior to the child being adjudicated delinquent to judges and  
32 professional court staff; the child's counsel or guardian  
33 ad litem; the county attorney and the county attorney's  
34 assistants; the court and court-related professional staff  
35 in connection with the preparation of a presentence report;

1 a state or local law enforcement agency; the state public  
2 defender; the statistical analysis center; the department of  
3 human services; the department of corrections; a judicial  
4 district department of correctional services; and the board  
5 of parole. The bill expands the list to include the child;  
6 the child's parent, guardian or custodian, court-appointed  
7 special advocate, the child's parent, guardian or custodian,  
8 court-appointed special advocate, guardian ad litem, and the  
9 members of the child advocacy board created in Code section  
10 237.16 or a local citizen foster care review board created  
11 in accordance with Code section 237.19 who are assigning or  
12 reviewing the child's case; the attorney representing the state  
13 in absence of the county attorney; an agency, individual,  
14 association, facility, or institution responsible for the care,  
15 treatment, or supervision of the child pursuant to a court  
16 order or voluntary placement agreement with the department of  
17 human services, juvenile court officer, or intake officer;  
18 the superintendent or the superintendent's designee of the  
19 school district for the school attended by the child or  
20 the authorities in charge of an accredited nonpublic school  
21 attended by the child; a member of the armed forces of the  
22 United States who is conducting a background investigation of  
23 an individual pursuant to federal law; individuals involved in  
24 operating juvenile diversion programs, who may also receive  
25 police reports and related information that assist in the  
26 operation of a juvenile diversion program; and the alleged  
27 victim of the delinquent act.

28 MISCELLANEOUS DUTIES RELATING TO CONFIDENTIAL RECORDS.  
29 Current law provides that a provision within Code section  
30 232.147 or Code section 232.149A shall not limit or prevent  
31 individuals from performing any duties or responsibilities  
32 as required by Code section 124.415 (parental and school  
33 notifications — persons under 18 years of age in possession of  
34 controlled substances), 232.47 (findings for adjudication), or  
35 232.49 (physical and mental examinations). The bill expands

1 current law to include additional provisions relating to the  
2 performance of duties or responsibilities as required by Code  
3 section 123.47B (notifying a parent and school of a person  
4 under 18 years of age in possession of or consuming alcoholic  
5 liquor, wine, or beer) or 321J.2B (parental and school  
6 notification of a person under 18 years of age operating while  
7 intoxicated).

8       MAINTENANCE OR DESTRUCTION OF SEALED RECORDS. Code section  
9 232.150 currently provides that on entry of a sealing order,  
10 all agencies and individuals having custody of juvenile records  
11 are required to send such records to the court issuing the  
12 order. The bill provides that maintenance or destruction  
13 of these records are to be prescribed by the state court  
14 administrator.

15       SEALING OF CERTAIN DISTRICT COURT RECORDS. The bill  
16 amends Code section 803.1 concerning the state's criminal  
17 jurisdiction and juveniles. The bill requires the court, if it  
18 is determined that charges were erroneously filed in district  
19 court on an individual under the age of 18 and the juvenile  
20 court holds exclusive jurisdiction, to dismiss the charge in  
21 district court and to direct the clerk of court to seal all  
22 records initiated in district court.

23       The bill amends Code section 803.6 concerning the transfer  
24 of jurisdiction to the juvenile court. Under current law,  
25 the court may hold a hearing on whether a juvenile who is  
26 alleged to have committed a criminal offense excluded from  
27 the jurisdiction of the juvenile court under Code section  
28 232.8(1)(c) should be transferred to the juvenile court for  
29 adjudication and disposition as a juvenile. If after the  
30 hearing the court transfers jurisdiction over the juvenile to  
31 the juvenile court for the alleged commission of the public  
32 offense, the court is required to forward the transfer order  
33 together with all papers, documents, and a transcript of all  
34 testimony filed or admitted into evidence in connection with  
35 the case to the clerk of the juvenile court in the manner

1 provided in Code section 232.8(2). The bill requires the clerk  
2 to seal all records initiated in district court in this type  
3 of case.

4 PUBLIC ACCESS TO CRIMINAL HISTORY DATA. Under current law,  
5 any person may request the criminal history data of another  
6 person from the department of public safety. The bill provides  
7 absent an order determining official juvenile court records to  
8 be public records is entered pursuant to Code section 232.149B,  
9 adjudication and custody data that are deemed, or ordered to  
10 be, confidential or that are sealed by court order, shall not  
11 be provided by the department.